

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IVAN M. CROCKETT,	:
Plaintiff,	:
v.	: Case No. 3:11-cv-272-KRG-KAP
ROBERT MILLER, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

The complaint was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)-(3), and Local Rule 72 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on October 31, 2012, docket no. 36, recommending that the defendants' motion to dismiss, docket no. 23, be granted.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. The plaintiff filed timely objections, which I have considered de novo.

After de novo review of the record of this matter together with the Report and Recommendation the objections thereto, the following order is entered:

AND NOW, this 3rd day of December, 2012, it is

ORDERED that the defendants' motion to dismiss, docket no. 23, is granted in part. The complaint is dismissed as to all defendants except Miller, and as to those defendants the Report and Recommendation is adopted as the opinion of the Court. As for defendant Miller, the complaint adequately states claims that Miller ordered that plaintiff be deprived of food for four days, and used excessive force by choking plaintiff. Defendant Miller shall file an Answer as to those two claims within twenty days of this order. The matter remains with the Magistrate Judge for pretrial proceedings.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

Ivan M. Crockett JS-1105
S.C.I. Somerset
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